

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 12, 2016

Ref No.: 16OD-009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Consent to Assign and Amend Grant of Non-Exclusive Easement, S-4543, Terence McTigue and Dorene McTigue, as Assignors, to NBL II, LLC, as Assignee; Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-1-008:seaward of 031

APPLICANT:

Terence McTigue and Dorene McTigue, as Assignor, to NBL II, LLC, a Washington limited liability company, as Assignee.

LEGAL REFERENCE:

Section 171-6 and 36 (a) (5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-1-008: seaward of 031, shown on the attached map labeled as **Exhibit A**.

AREA:

520 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair the seawall.

TERM OF EASEMENT:

65 years commenced on November 24, 1975.

ANNUAL RENTAL:

Not applicable. Lump sum consideration paid.

CONSIDERATION:

\$ 10.00.

RECOMMENDED PREMIUM:

Not applicable as the easement does not allow for a premium.

REMARKS:

The subject seawall easement was issued in 1975 for a term of 65 years. On May 13, 2005, under agenda item D-17, the Board gave its consent to assign the subject easement from George and Linda Orosco to Mr. and Mrs. McTigue.

By way of an exchange warranty deed and assignment of grant of easement recorded on December 31, 2015 as document number A-58430153 and A-58430154 respectively, Mr. and Mrs. McTigue sold the abutting private property and the easement interest to NBL II, LLC. Staff is requesting that the Board consent to the assignment of the subject seawall easement to NBL II, LLC, the current owner of the abutting private property.

In the event of any further changes to the ownership of the privately owned property, staff recommends that the Board amend the easement to inure to the benefit of the private property, to eliminate the consent needed from the Board regarding any future assignment(s). Staff's recommendation would serve to maintain consistency with the Board's current practice for issuing easements.

The proposed Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The subject request is for housekeeping purposes. Therefore, staff did not request that government agencies respond with comments.

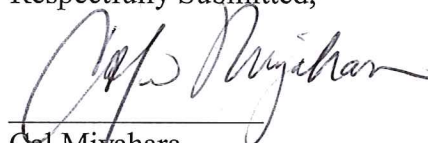
There are no other pertinent issues that staff is aware of. Staff now brings this request to the Board for its approval.

RECOMMENDATION: That the Board:

- A. Consent to the Assignment of Grant of Easement, from Terence McTigue and Dorene McTigue, as Assignors, to NBL II, LLC, as Assignees, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Amend the Grant of Easement, General Lease No. S-4543, by adding the following condition:

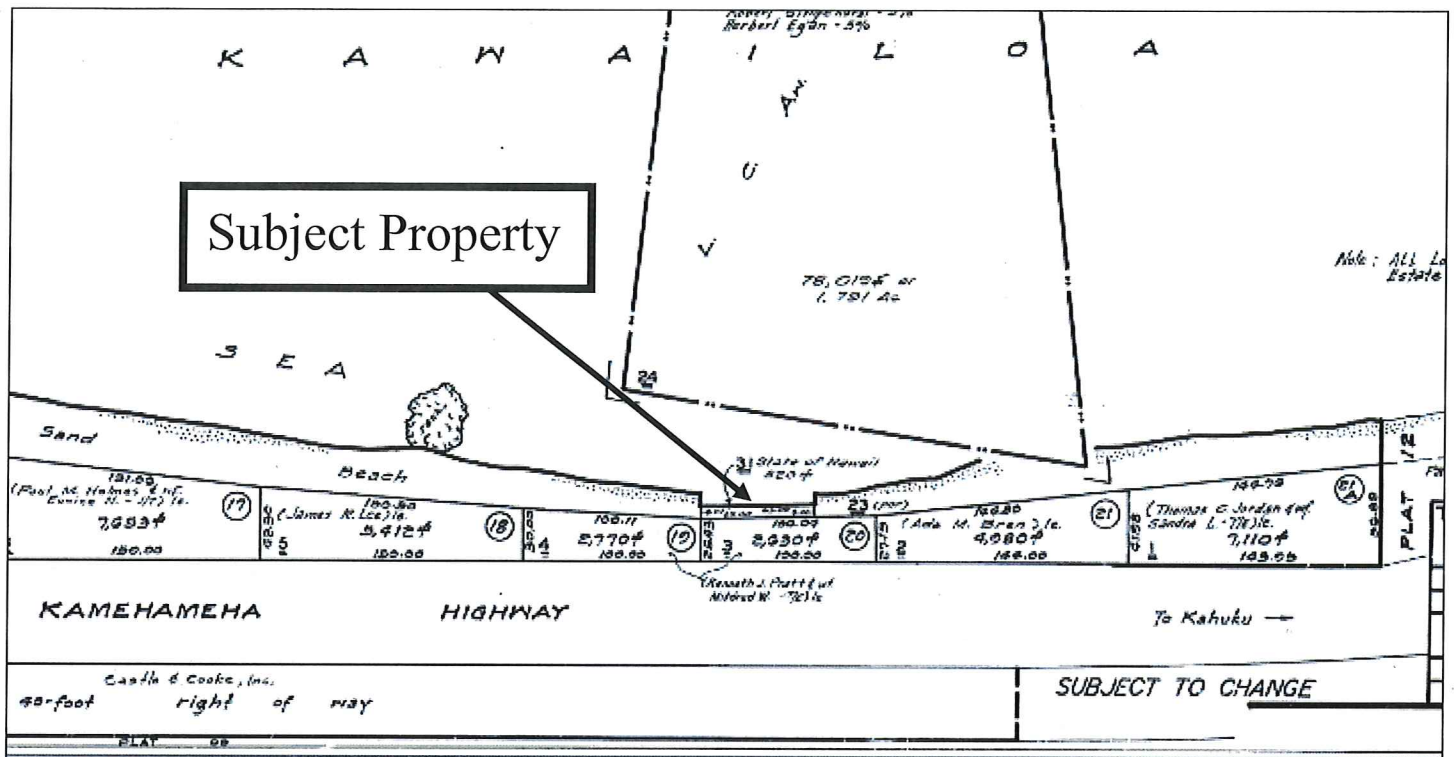
“Throughout the term (unless sooner abandoned or otherwise terminated herein) this easement shall run with the land and shall inure to the benefit of the real property described as tax map key no. (1) 6-1-008:031, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee’s estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.”

Respectfully Submitted,


Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TAX MAP KEY: (1) 6-1-008: SEAWARD OF 031

EXHIBIT A